

**DELEGATION OF
AUTHORITY TO THE
COMMISSIONER OF U.S.
CUSTOMS AND BORDER
PROTECTION**

I. Purpose

This delegation vests in the Commissioner of U.S. Customs and Border Protection (CBP), and through him to customs officers, immigration officers, Border and Transportation Security and other officers and employees of CBP the authorities described herein in order to accomplish the mission of CBP.

II. Delegations

Pursuant to the authority vested in the Secretary of Homeland Security by law, including the Homeland Security Act of 2002 (the Act), and by the Delegation to the Under Secretary for Border and Transportation Security, number 7001, I hereby delegate to the Commissioner of U.S. Customs and Border Protection (the Commissioner):

A. Authority vested in me by section 403(1) of the Act, including all rights, privileges, powers, and duties enforced or administered by the U.S. Customs Service prior to its transfer to the Department of Homeland Security, except that, when such authority involves a Customs revenue function within the meaning of sections 412 and 415 of the Act, this delegation is subject to a delegation of authority from the Department of the Treasury issued pursuant to section 412(a)(1) of the Act. The exercise of this delegated authority by the Commissioner shall be subject to the following additional conditions:

1. Regulations shall be prescribed by the Commissioner with the approval of the Under Secretary for Border and Transportation (BTS) and the Secretary of Homeland Security, except that:

a. regulations and instructions, not inconsistent with the general rules and regulations of the Department of Homeland Security, which are effective only against persons in their capacity as officers, agents, or employees of the Bureau of Customs and Border Protection, and which do not prescribe procedures which the public should know or follow in dealing with CBP, may be prescribed by the Commissioner without the approval of the Secretary of Homeland Security, and

b. regulations relating to sections 4.22, 4.81a(b), 4.93(b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations [19 CFR 4.22, 4.81a(b), 4.93(b)(1) and (b)(2), 4.94(b), and 10.59(f)], or their successor regulatory provisions, may be prescribed by the Commissioner without the approval of the Secretary of Homeland Security.

2. Requirements of regulations which may be waived in accordance with law may be waived by the Commissioner.

3. With the approval of the Secretary of Homeland Security, the Commissioner may make findings under section 307, Tariff Act of 1930, as amended (19 U.S.C. 1307), whether any class of goods, wares, articles, or merchandise is mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions, and findings whether such goods, wares, articles, or merchandise so mined, produced, or manufactured are mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

4. With the approval of the Secretary of Homeland Security, the Commissioner may issue any order under section 510, Tariff Act of 1930, as amended (19 U.S.C. § 1510), prohibiting the importation of merchandise or issuing instructions to withhold delivery of merchandise.

5. The Commissioner may render any decision with respect to any claim - including claims for duties, taxes, fees, and liquidated damages; and any fine, penalty, or forfeiture - of \$2,000,000 or less (excluding interest and attorney's fees), except that this dollar-value ceiling does not apply to limit claim resolution authority regarding claims incurred or arising under:

a. The following provisions of the Tariff Act of 1930:

(1) Section 308 of the Tariff Act of 1930, as amended (19 U.S.C. 1308) concerning imported dog and cat fur products;

(2) Section 436 of the Tariff Act of 1930, as amended (19 U.S.C. 1436(d)) concerning additional civil penalty for merchandise brought in or imported on a conveyance not properly reported or entered;

(3) Section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), for lading or unlading merchandise or baggage without obtaining the required license or permit;

- (4) Section 462 of the Tariff Act of 1930, as amended (19 U.S.C. 1462), concerning forfeitures for failing to open baggage;
- (5) Section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466) concerning vessel repair penalties;
- (6) Section 509 of the Tariff Act of 1930, as amended (19 U.S.C. 1509) concerning the keeping of records;
- (7) Section 526 of the Tariff Act of 1930, as amended (19 U.S.C. 1526) concerning the importation of trademark-violative goods;
- (8) Bonds taken pursuant to section 555 of the Tariff Act of 1930, as amended (19 U.S.C. 1555);
- (9) Section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), for having on board, or unloading from, a vessel or vehicle, any merchandise which is not included or described in the manifest or does not agree therewith;
- (10) Section 590 of the Tariff Act of 1930, as amended (19 U.S.C. 1590) concerning the seizure of conveyances for aviation smuggling;
- (11) Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592);
- (12) Section 593A of the Tariff Act of 1930, as amended (19 U.S.C. 1593A) concerning false drawback claims;
- (13) Section 596 of the Tariff Act of 1930, as amended (19 U.S.C. 1595a) except as otherwise noted herein;
- (14) Bonds taken pursuant to section 623 of the Tariff Act of 1930, as amended (19 U.S.C. 1623);
- (15) Section 627 of the Tariff Act of 1930, as amended (19 U.S.C. 1627a), concerning the unlawful importation or exportation of certain vehicles;
- (16) Section 802 of the Tariff Act of 1930, as amended (19 U.S.C. 1681a) concerning requirements for entry of certain cigarettes;

- b. The Act of February 24, 1915 (46 U.S.C. App. 14), for false oath to obtain a register for a wrecked vessel;
- c. Section 1 of the Act of May 28, 1906 (46 U.S.C. App. 292), in respect of foreign-built dredges engaging in dredging in the United States; Section 4370, Revised Statutes, as amended (46 U.S.C. App. 316(a) and (d)), in respect of any vessel employed in towing in violation of subsection (a) of that section, as amended, or of any foreign vessel engaging in salvaging operations not excepted or authorized by subsection (d) of that section, as amended;
- d. Section 7, Act of June 19, 1886, as amended (46 U.S.C. App. 319), in respect of certain vessels trading coastwise, or engaged in the fishery, without a valid document and in respect of such vessels having on board foreign merchandise or taxable alcoholic liquors on which the duties or taxes have not been paid or secured to be paid;
- e. Section 4240, Revised Statutes (46 U.S.C. App. 723), in respect of any vessel transporting to a foreign port any property taken from a wreck within United States jurisdiction off the coast of Florida;
- f. Section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. App. 883), in respect of merchandise transported coastwise in a vessel ineligible under that section to engage in such transportation;
- g. Any bond for failure to make entry and deposit estimated duties, fees, and taxes, for failure to produce required documents within the time required by the law or regulation, or for failure to comply with redelivery or other requirements concerning the importation of merchandise;
- h. Section 2 of the Act of July 14, 1956 (46 U.S.C. App. 883a), in respect of certain vessels of more than 500 gross tons rebuilt abroad for which the required report of the circumstances of rebuilding is not made;
- i. Section 27A, Merchant Marine Act of 1920, as amended (46 U.S.C. App. 883-1), so far as that section imposes any fine or penalty (including forfeiture) for falsifying any certificate under oath or for transporting merchandise or passengers for hire
- j. 19 U.S.C. 1497 seizures of merchandise;

- k. 22 U.S.C. 401;
- l. With the exception of those cases concerning common carriers, cases arising under the provisions of 19 U.S.C. 1595a(a), 49 U.S.C. 80302 and 80303, and 21 U.S.C. 881;
- m. Section 3 of Title I of the Act of August 5, 1935, 49 Stat. 518 (19 U.S.C. 1703) concerning the outfitting of conveyances for smuggling;
- n. Bonds taken pursuant to section 3 of the Act of June 18, 1934, 48 Stat. 999, (19 U.S.C. 81c), concerning Foreign Trade Zones;
- o. Section 101 of Title I of Pub. L. 94-553, as amended (17 U.S.C. 603) concerning copyright-violative material;
- p. 18 U.S.C. 981 concerning civil forfeiture of property;
- q. 18 U.S.C. 984 concerning civil forfeiture of fungible property;
- r. 18 U.S.C. 1956 concerning money laundering;
- s. 18 U.S.C. 1960 concerning illegal money transmitting;
- t. 31 U.S.C. 5316, 5317 - reporting of monetary instruments and civil forfeitures;
- u. 31 U.S.C. 5321(a)(2) and 5321(a)(4) - civil penalties for failure to report monetary instruments;
- v. 31 U.S.C. 5324 concerning the structuring of financial transactions;
- w. 31 U.S.C. 5332 concerning bulk cash smuggling; and
- x. 49 U.S.C. 46306 regarding the registration of aircraft.

6. In consultation with the Assistant Secretary for U.S. Immigration and Customs Enforcement as appropriate, the Commissioner may issue an award of compensation to an informer under section 619, Tariff Act of 1930, as amended, (19 U.S.C. 1619), and rewards under 31 U.S.C. 5323, only with the approval of the Secretary of Homeland Security when claimed in connection with any decision which has been acted upon or approved by the Secretary.

7. The Commissioner may exercise any power and perform any duty permitted or required pursuant to Title III of Public Law No. 97-446, the Convention on Cultural Property Implementation Act, except that any rules or regulations promulgated under the Act are to be subject to applicable Department policies and procedures.

8. Pursuant to the authority contained in section 12 of Public Law 600, 79th Congress, the Commissioner may authorize the publication of advertisements, notices, or proposals relating to administration of the activities of the CBP.

9. The Commissioner may perform the function, authorized by section 313(d) of the Tariff Act of 1930, as amended, (19 U.S.C. 1313(d)), vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp., Ch. III), transferred by the Secretary of Treasury from the Commissioner of Internal Revenue to the Commissioner of Customs by Treasury Delegation Order 165-04 of August 13, 1958, and redelegated by the Secretary of the Treasury to the Secretary of Homeland Security pursuant to the delegation of authority from the Department of the Treasury issued pursuant to section 412(a)(1) of the Act, of allowing the drawback of an amount equal to the internal revenue tax found to have been paid on domestic alcohol used in the manufacture or production in the United States of flavoring extracts and medicinal or toilet preparations (including perfumery) that have been exported.

10. The Commissioner may take all necessary action required of the United States under Section 1 of Article 5 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), subject to the conditions set forth in Section 2 of said Article 5.

11. The Commissioner may dispose of conveyances valued at not more than \$500,000, which are seized because they have been used in the illegal transportation of any quantity of a controlled substance.

12. The Commissioner may assess civil penalties under 31 U.S.C. 333 involving the misuse of the name or symbol of CBP or the title or name of any employee of CBP; or the name or symbol of the Department of the Treasury or the Secretary or any Treasury employee in connection with activities within the jurisdiction of CBP.

13. The Commissioner may act for the Secretary of Homeland Security with respect to all of the Secretary's functions as a member of the Foreign-Trade Zones Board, and exercise all of the authority of the Secretary of Homeland Security under the Act of June 18, 1934 (19 U.S.C. 81, et seq., as amended).

14. The Commissioner may compensate officers and employees appointed for the administration of the customs laws in the Virgin Islands of the United States at the rates of compensation, including rates of extra compensation, for services performed in connection with the administration of the customs laws of the United States. Payments to officers and employees in the Virgin Islands for extra compensation shall be made from the Virgin Islands Trust Fund. Collections from parties in interest for extra compensation will be made by the Government of the Virgin Islands under authority of its local laws. The application of the rates to Virgin Islands customs officers and employees will be subject to the regulations, decisions, directions for assignment and control of personnel and the accounting procedures that are applicable to customs officers other than those in the Virgin Islands.

15. With the exception of specific decisions required by statute to be made at the Departmental level, the Commissioner may exercise other authority relating to all matters arising from revocation or suspension of brokers' licenses or penalties in lieu thereof pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641).

16. The Commissioner may exercise the authority of the Secretary of Homeland Security, in accordance with Treasury Order 100-16, 68 Fed. Reg. 28322 (May 23, 2003), to preside jointly with Treasury over the meetings of the Federal Advisory Committee known as the Commercial Operations Advisory Committee (COAC); to make appointments, subject to the Secretary's approval, to COAC jointly with Treasury; and to receive COAC advice. The Commissioner shall inform me in a timely manner of any advice provided by COAC.

B. Authority vested in me by section 441 of the Homeland Security Act of 2002 respecting the Border Patrol (6 U.S.C. 251(1)) and Inspections (6 U.S.C. 251(5)) Programs of the former Immigration and Naturalization Service, and transferred to BCBP by the Department of Homeland Security Reorganization Plan of January 30, 2003, including:

1. Authority under section 103(a)(1) of the Immigration and Nationality Act of 1952, as amended (the INA), 8 U.S.C. 1103(a)(1), to enforce and administer the immigration laws (as defined in section 101(a)(17) of the INA) with respect to matters within the jurisdiction of CBP;
2. Authority to investigate alleged violations of the immigration laws and make recommendations for prosecutions when deemed advisable;
3. Authority under the immigration laws and Title 19 of the U.S. Code to patrol the borders of the United States;

4. Authority to waive document requirements for returning lawful permanent residents according to section 211 of the INA, 8 U.S.C. 1181(b), and 8 CFR 211.4;
5. Authority to enforce and administer the immigration laws relating to the inspection and admission of people seeking admission to the United States, including the authority to make admissibility determinations (including the adjudication of related waivers of inadmissibility), set the duration, terms, and conditions of admission (including bond or any other appropriate conditions of admission);
6. Authority to impose penalties for failing to comply with the manifest requirements under section 231 of the INA, 8 U.S.C. 1221;
7. Authority to detain aliens for physical and mental examination under section 232 of the INA, 8 U.S.C. 1222, and 8 CFR 232.3.
8. Authority under section 233 of the INA, 8 U.S.C. 1223, and 8 CFR Part 233 to impose requirements and enter into contracts with transportation lines;
9. Authority in consultation with the Secretary of State under section 235A of the INA, 8 U.S.C. 1225a, to establish and maintain preinspection stations at foreign airports;
10. Authority under section 243(c) of the INA, 8 U.S.C. 1253(c), to impose civil penalties upon vessels and aircraft;
11. Authority to enforce and administer the immigration laws (including but not limited to sections 251-258, 8 U.S.C. 1281-88) relating to alien crewmen;
12. Authority to register and fingerprint aliens in the United States, and exercise other functions relating to registration and changes of addresses as provided by sections 262-266 of the Immigration and Nationality Act. 8 U.S.C. 1302-1306;
13. Authority to place removable aliens in removal proceedings;
14. Authority to cancel a notice to appear for removal proceedings before jurisdiction vests with the Executive Office for Immigration Review of the Department of Justice (the "EOIR");
15. Authority to parole an applicant for admission into the United States under section 212(d)(5) of the INA, 8 U.S.C. 1182(d)(5);

16. Authority to exercise prosecutorial discretion in immigration enforcement matters (including permitting withdrawal of an application for admission or voluntary return, and granting deferred action);
17. All authorities provided by section 287 of the INA, 8 U.S.C. 1357 (except for subsection 287(g)), and 8 CFR 287 (except for subsections 287.10 and 287.11);
18. Authority to administer and enforce section 274C (8 U.S.C. 1324c) of the INA, including authority to issue orders;
19. Authority to grant voluntary departure under section 240B of the INA, 8 U.S.C. 1229c;
20. Authority provided by section 235(d) of the INA, including but not limited to administering oaths, taking evidence, and requiring by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents;
21. Authority under the immigration laws, including but not limited to sections 235, 236, 238, and 241 of the INA (8 U.S.C. 1225, 1226, 1228, and 1231), to issue and execute warrants, detain aliens, release aliens on bond and other appropriate conditions as provided by law, and remove aliens from the United States;
22. Authority under section 241 of the INA, 8 U.S.C. 1231, to issue and execute warrants of removal from the United States;
23. Authority to exercise departure control authorities under section 215 of the INA, 8 U.S.C. 1185, and 8 CFR Part 215;
24. Authority to permit self-removal under 8 CFR 241.7;
25. Authority to reinstate removal orders under section 241 of the INA, 8 U.S.C. 1231, and 8 CFR 241.8;
26. Authority to enforce the forfeiture and civil penalty provisions of the immigration laws, including but not limited to section 274 of the INA, 8 U.S.C. 1324;
27. Authority to certify documents as true copies of official CBP records;
28. Authority to make certifications under section 294 of the INA, 8 U.S.C. 1363a, with respect to undercover investigations and to exercise authorities authorized under section 294 pursuant to such certifications;

29. Authority to establish offices and station officers and employees of the CBP in foreign countries as provided by section 103(a)(7) of the INA, 8 U.S.C. 1103(a)(7), and other applicable law, and to perform such other activities with respect to the international operations of the Department of Homeland Security as the Secretary may direct;

C. All authority vested in me by section 421 of the Homeland Security Act of 2002 respecting the transfer of agricultural inspection functions from the Department of Agriculture and transferred to CBP by the Department of Homeland Security Reorganization Plan of January 30, 2003.

D. Authority under Title 46, United States Code, Subtitle VI, and the Maritime Transportation Security Act of 2002, Pub. L. 107-295, to:

1. Carry out the functions and exercise the authority vested in the Secretary by the following sections of Title 46, United States Code:

a. Section 70102 to support the Coast Guard concerning United States facility and vessel vulnerability assessments;

b. Section 70103 to support the Coast Guard regarding vessel and facility security plans so as to ensure capability, as appropriate, between the Customs Trade Partnership Against Terrorism (C-TPAT) or successor program and requirements promulgated by the Coast Guard under this section;

c. Section 70104 to support the Coast Guard concerning transportation security incident response and in cooperation with U.S. Immigration and Customs Enforcement, as appropriate;

d. Section 70105 concerning Transportation Security Cards to provide support to the Transportation Security Administration;

e. Sections 70108, 70109, and 70110 to support the Coast Guard consistent with the responsibilities of the Coast Guard described above;

f. Section 70111 concerning enhanced crewmember identification to provide support to the Coast Guard;

g. Section 70112 to participate as a member of the Area Maritime Security Advisory Committees;

- h. Section 70113 to continue to collect, integrate, and analyze information concerning the movement of vessels, crew, passengers, and cargo, into and out of the United States, in cooperation with the Coast Guard and other organizational entities in the Department of Homeland Security, and support the Transportation Security Administration as it implements an Integrated Maritime Information System to support the Coast Guard in carrying out its responsibilities under this section; and
 - i. Section 70116 to provide support to the Transportation Security Administration, in recognition of CBP's existing capabilities and traditional role related to this section;
 - 2. To consult with and support the Coast Guard in exercising its responsibilities under section 112 (Report on Foreign-Flag Vessels) of the Maritime Transportation Act of 2002 (Public Law 107-295);
 - 3. Carry out the functions and exercise the authority vested in the Secretary by Section 102(d) (Rulemaking requirements) of the Maritime Transportation Security Act of 2002 (Public Law 107-295), as it relates to exercising authority delegated to the Commissioner under Title 46 of the United States Code above in accordance with DHS policies and directives for approval of Federal Register documents; and
 - 4. The authority to assess and issue civil penalties, as provided in 46 U.S.C. § 70117.
- E. To carry out functions and exercise authority under section 108 of the Maritime Transportation Security Act of 2002, Pub. L. No. 107-295 § 108;
- F. Authority under Titles 8 and 19 of the U.S. Code and any other provision of law, to patrol the border, provide airspace security, and otherwise carry out the air and marine interdiction program transferred to CBP; and
- G. To carry out such additional functions as I may direct.
- H. In exercising the authority delegated by this Order, the Commissioner shall be governed by the Homeland Security Act of 2002; all applicable federal laws, rules and regulations; and the policies, procedures, direction, authority and control of the Secretary, the Deputy Secretary, the Under Secretary for Border and Transportation Security, the Under Secretary for Management, or other officer authorized by the Secretary to prescribe such policies and procedures or exercise such authority, direction and control. Nothing in this Order shall be construed to limit or detract from the authority of the Secretary under section 102(a)(2) and (3) of the Homeland Security Act of 2002 and other applicable law.

III. Reservations

A. The authority conferred upon the President by section 1 of the Act of August 14, 1914, c. 223, 38 Stat. 609, 623, as amended (19 U.S.C. 2):

1. to rearrange, by consolidation or otherwise, the several customs-collection districts;
2. to discontinue ports of entry by abolishing the same and establishing others in their stead, and
3. to change from time to time the location of the headquarters in any customs-collection district as necessary, delegated by the President to the Secretary of the Treasury pursuant to Executive Order 10289 (3 CFR, 1951 Supp., Ch. II), and transferred to the Secretary of Homeland Security under the Act shall be reserved to and exercised by the Secretary of Homeland Security.

B. Any decision as to whether to waive compliance with the navigation laws pursuant to the Act of December 27, 1950, 64 Stat. 1120 (46 U.S.C. Chapter 1 Note), shall be made by the Secretary of Homeland Security, except that the Commissioner shall waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense.

C. Any authority which may be vested in the Secretary of Homeland Security by a proclamation of the President made pursuant to section 318, Tariff Act of 1930, as amended (19 U.S.C. § 1318), shall be reserved to and exercised by the Secretary of Homeland Security.

D. The above delegations of authority to the Commissioner in no way limit the functions, rights, privileges, powers, and duties vested in the Assistant Secretary for U.S. Immigration and Customs Enforcement or in the Director of U.S. Citizenship and Immigration Services by law, including authority provided by the above listed statutes or any delegation from the Secretary of Homeland Security.

E. The Commissioner is directed to coordinate to the extent necessary and appropriate, his exercise of the authorities under this delegation with other officials to whom I have delegated authorities that complement, relate to, involve, or are concurrent with the authorities in this delegation.

F. Nothing in this delegation is intended to grant or provide authority or jurisdiction over any determination or matter within the sole authority of the Executive Office for Immigration Review of the Department of Justice.

IV. Re-delegation

Unless otherwise proscribed by statute, Executive Order, or the terms of this delegation, the authority conferred on the Commissioner by this delegation may be re-delegated in writing by the Commissioner to an appropriate subordinate official of CBP.

Officers and employees of the Customs Service, the Border Patrol and Inspections Programs of the former Immigration and Naturalization Service and the Animal and Plant Health Inspection Service will continue to be delegated, following their transfer to the CBP, the authorities and responsibilities they exercise on February 28, 2003, unless modified, revoked, or withdrawn by the Commissioner or other authorized official.

V. Authorities

Homeland Security Act of 2002, 16 Stat. 2135, Pub. L. 107-296, 101, 102, 403, 411, 412, 415, 421, 441, 872, 1502; 5 U.S.C. 301; Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 et seq.; the "immigration laws," as defined by section 101(a)(17) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101(a)(17); The President's Homeland Security Reorganization Plan, November 25, 2002, as modified, January 30, 2003; Treasury Order 100-16, 68 Fed. Reg. 28322 (May 23, 2003); Pub. L. 108-334; Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, 101 Stat. 1330-381, section 9503(c), 19 U.S.C. 2071 nt.

VI. Credentials

Any badge, credential, or other documentation that was valid at 11:59 p.m. on February 28, 2003, and that identifies an officer or employee of the Immigration and Naturalization Service, Customs Service, or the Animal and Plant Health Inspection Service who is transferred to CBP, shall continue in effect as a badge, credential or other documentation identifying an officer or employee of the BCBP until its expiration, revocation, withdrawal, or replacement, whichever comes first. The Commissioner may authorize replacement, renewal, or new issuance of badges, credentials, or other documents to CBP officers or employees using Immigration and Naturalization Service, Customs Service, or the Animal and Plant Health Inspection Service identity and forms until CBP forms are available.

VII. Office of Primary Interest

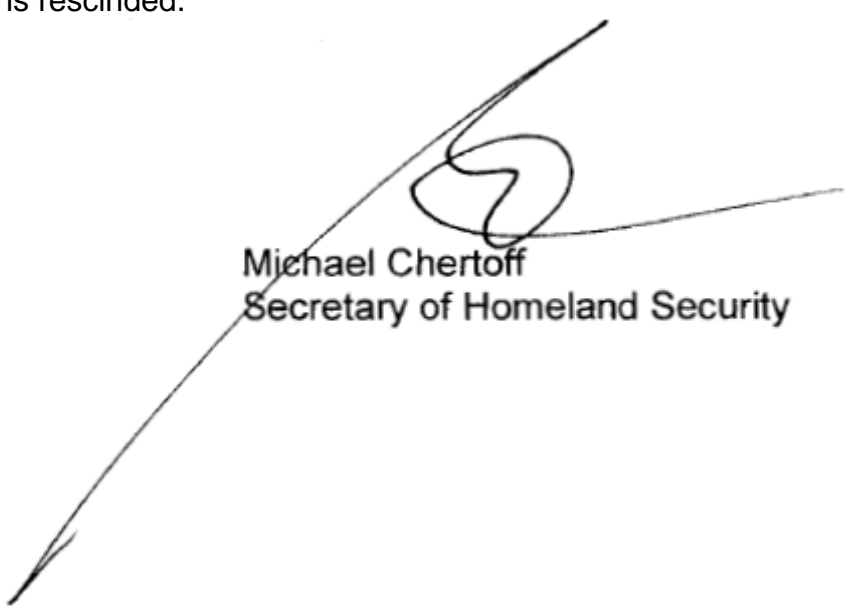
The Office of the Commissioner of U.S. Customs and Border Protection is the office of primary interest in this delegation.

VIII. Effective Date and Time

This superseding delegation of authority shall take effect upon signature.

IX. Cancellation

Delegation Number 7070.2, is rescinded.



Michael Chertoff
Secretary of Homeland Security